

**PLANNING COMMISSION
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA
TUESDAY, MARCH 25, 2014**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>		<i>Val Hillers – Chair</i>
	<i>Dean Enell</i>	
	<i>Mike Joselyn – Vice Chair</i>	
<i>District 2</i>	<i>Jeffery Wallin</i>	
		<i>George Saul</i>
		<i>Leal Dickson</i>
<i>District 3</i>	<i>Wayne Havens</i>	
	<i>Beth Munson</i>	
	<i>Scott Yonkman</i>	

Meeting was called to order at 9:04 a.m. by Vice-Chair Joselyn.

ROLL CALL

Dean Enell, Wayne Havens, Mike Joselyn, Beth Munson, Jeff Wallin, Scott Yonkman

Minutes:

January 7, 2014

Commissioner Yonkman moved to approve the minutes as written, Commissioner Enell seconded, motion carried unanimously.

February 11, 2014

Commissioner Yonkman moved to approve the minutes as written, Commissioner Enell seconded, motion carried unanimously.

February 25, 2014

Commissioner Yonkman moved to approve the minutes as written, Commissioner Enell seconded, motion carried unanimously.

March 10, 2014

Commissioner Enell moved to approve the minutes as written, Commissioner Yonkman seconded, motion carried unanimously.

Planning staff present: David Wechner – Planning Director, Brad Johnson – Long Range Planner, Jamie Hartley – Critical Areas Planner

ITEMS FROM THE PUBLIC

Ron Nelson, Economic Development Council

He would encourage the public and Planning Commission to read and comment regarding the Island County Fairgrounds property strategic plan on www.iscoedc.com. The plan is located on the website and welcomes comments/suggestions on a business model that can help the

continuation of the fairgrounds property future as it's currently used and increase its economic development.

DIRECTOR'S REPORT

Dave Wechner informed the Commission of new staff Janet Wright and Greg Goforth to the Planning Commission.

OLD BUSINESS –

Continuation of Findings and Recommendation from March 11, 2014-Proposed amendments to Chapter 17.03 ICC, designating land use application type, definitions and establishing development standards for the regulation of I-502 (recreational marijuana) uses in several zones of the County. (DRA 049/14).

Dave Wechner stated the findings of facts have been revised and are dated March 21, 2014 and have been posted on the County website. The changes to the findings are as follows:

- Finding A, remains unchanged.
- Finding B, remains unchanged and there were no challenges to the SEPA determination.
- Finding C, there are no proposed changes; no change to the finding but there are changes to the regulation.
- Finding E No Changes
- Finding F No changes
- Finding G no changes.
- Changes to I proposed finding:
 - A letter received on March 21, 2014 from Kristen Griffin from the Ebey's Reserve, The board of the trust met on a special session and Ms. Griffin followed it up with a letter.
- Amended Finding I to read as follows:
The Planning Commission finds that marijuana uses proposed within Ebey's National Historic Reserve may be subject to the design guidelines of ICC Chapter 17.04A established to address the visual character of development within the Reserve.
- The Trust Board felt the design guidelines in place within County code, the Town of Coupeville code, and the process in place to review building structures and uses within the reserve were adequate to protect the character of the reserve and any adverse visual impacts due to I-502 uses as seen thus far.
- The condition originally came from the Board Commissioners, they were concerned that a national historic reserve especially one which is one, to some degree under federal control and yet marijuana uses remain a controlled substance in the federal government's view. They were concerned about the legal relationship and the Trust Board is not seeing that as a major concern, there are certainly some properties that are in federal ownership, I-502 uses would not be occurring on those properties and since most of the reserve is in private ownership, leases for agricultural uses some development rights are bought up in the reserve they felt that the design regulations and processes in place were adequate protection for the character protection in the reserve.
- Made revisions to a couple of sections of the proposed code. These are references within the zoning code that refer to the new section of code 17.03.180.BB. This is particular to

marijuana uses. In each zone, the structure of the code is to say whether the use is permitted, a conditional use or prohibited and it makes a reference to the land use development standards in 180.BB, that is the structure on how the zoning code treats uses and implements design standards.

- Changes to Langley UGA based on correspondence and a phone call conversation with Jeff Arango, 17.03.085. In its entirety it is zoned residential, Langley suggested because we are not allowing I-502 in the Rural Residential zone that it also be prohibited within the Langley UGA to be consistent with our code.
- In Rural Agricultural zone 17.03.090 adjustments made that a type I use would be a type I use in the Rural Ag zone, type II is a type II as 180.BB as proposed dictates relevant to the tier of the marijuana use in the Washington Administrative Code, Tier I, II and III of producing and processing. Application types have been assigned to each zone whether the use is permitted is permitted conditional or prohibited. Commercial Agriculture 17.03.100, Rural Forest 17.03.110 at the suggestion of the Prosecuting Attorney and several people who testified in the previous hearing, marijuana uses are now included within those zones and they are per 180.BB laid out whether they are permitted, conditional or prohibited. These items are in Exhibit C.
- He also received correspondence from Josh Harvey; he feels his property is less than the 300 foot dimensions even though it is well over 5 acres in size. After reviewing his property map he has two pieces of property, one is indeed less than 300 feet at its smallest point and he asked that the Planning Commission revise that particular dimensional requirement. In response to that is Mr. Harvey's property is well above the 5 acre threshold that was originally discussed in the workshops, there was a focus on the dimensional width of the property. The minimum width to assure there is a buffer and marijuana uses would take place in lands or in areas of less dense population. 5 acre parcels may be 100 feet wide and several 100 feet long, this was looked at in workshop as a way to make sure that there were some adequate distance between this use and other uses on adjacent properties. Mr. Harvey feels his property is just shy of the 300 foot threshold. Dave looked at the tax lot maps and does not think that is entirely true. If the focus is just on one property rather than the cumulative properties that property owner may own, that would push someone off the list. When the cumulative properties that they own may meet that dimensional requirement. The suggestion to the Planning Commission is to avoid that and to allow people to look at the cumulative total of the properties they own, whether that meets the dimensional requirements to simply add an "s" to the definition when talking about dimensions to say property or properties.

Commissioner Yonkman asked if looking at the cumulative dimensions of an owner's property, it may be separate parcels to allow the use, would there be a need to require that the owner combine those parcels, does that mean that the setbacks would be then lost at a later time.

Dave suggested that a combination of lots would not be necessary.

PUBLIC COMMENTS

Marianne Edain, Box 53 Langley

In the matter whether a parcel meets the minimum lot size requirement, would ask the Planning Commission to consider the possibility of a landowner that does not have a large enough parcel or for other reasons is inhibited, that such a landowner may go to their neighbors and get a statement from each of their neighbors saying they are happy with this land use and would not object to that land use even though it would not might not meet some other standards.

Steve Erickson, Box 53 Langley

Wanted to discuss a few items:

- Asked if the limitations for inside of Ebey's Reserve were still a part of the document. Director Wechner responded that it was not.
- Commented regarding Finding E, marijuana is several different species and often a hybrid. He suggests the word species be removed since it does not make much sense and it is a plant and different as far as the cultivation of it.
- Also commented under Number 3, most but not all production of marijuana is expected to be hydroponic. Hydroponic cultivation is entirely in water and does not feel that is not necessarily correct, that most production is in water, it typically tends to be fairly intense in terms of delivery of nutrients through water base solution but what really differentiates it from what is typically considered commercial agriculture is that it tends to be enclosed. It tends to be in a fairly artificial environment, similar to growing poinsettias in a greenhouse. Suggested to use "in an enclosed structure" instead of hydroponic.

Charles Tuura, Canna Northwest

He wanted to thank the Planning Commission and Mr. Wechner on getting the plan together.

Commissioner Yonkman closed the public comment period.

Commissioner Enell suggested that the 300 foot requirement be addressed as well as, adding the word cumulative. Also made the motion the restriction on a piece of property is changed to allow the cumulative sum to the person's property and the restriction be waived.

Commissioner Yonkman asked if the level of review would be for the type of used that is being proposed.

Director Wechner said level of review is in proposed section 17.03.180 BB subsection 1 and it does define producers as type I, II and III based on their tier of the Washington Administrative Code and also on their building size. 4,000 sq. ft. is a SEPA threshold but also a minimum requirement for fire flow. On the following page of their document of subsection 2 of 180. BB, all processors are subject to a type II Site Plan Review. He further explained the different types and tiers and how they impact each other.

Commissioner Yonkman feels the suggestion of Commissioner Enell's proposal is opened ended and would like to know what governs or who decides what the proper widths.

David Wechner stated 300 feet a dimensional requirement that the Board of Commissioners considered in looking at temporary event permits and those properties be at least 300 feet in width and felt that was an adequate distance. That was to recognize that the shapes of many of the parcels in Island County.

Commissioner Enell recommended the current 300 ft width dimension be reduced to 250 feet or the cumulative sum be 250ft that the minimum lot be reduced to the cumulative total of 250 feet.

Commissioner Yonkman was concerned that a person could opt to sell a piece of the aggregate at some point and could then possibly become a negative. Overall would like to be more encouraging than discouraging and promote economic development and is reminded of the policies that are in place in the Comprehensive Plan must be adaptable to changing conditions and may be amended if needed. He is in support Commissioner Enell's motion.

Director Wechner would recommend the change to the 17.03.180.BB.2b read as follows:

Minimum lot dimensions on any property(s) to be used in processing shall be 250 feet in distance between any lot lines.

Commissioner Enell moved to change 17.03.180.BB.2b as described by Director Wechner, Commissioner Yonkman seconded, motion carried unanimously.

Commissioner Enell, addressed Ms. Edain's comment regarding allowing reduce lot sizes if permission is obtained from neighboring properties; it seems that the best way to address that concern is take it to a higher level review category which would require notification to the neighbors. He asked if there may be a number of these circumstances that may arise.

Dave Wechner responded that the reason for reduction of the lot dimensions was to accommodate smaller lot sizes.

Commissioner Enell stated that Ms. Edain's concern should be addressed by the reduced lot dimensions. He spoke in regards to Mr. Erickson's request to remove the word species and reference to hydroponic.

Dave Wechner responded by stating that the word was located in Finding E; Cannabis has its own subspecies within it. He also read how the portion of the finding will read:

While marijuana is a plant, the Planning Commission finds the uses allowed under I-502 are distinguished from, and unlike, other plants grown and processed as typical agricultural practices and products for the following reasons:

Commissioner Enell moved to remove the word species and as read by Director Wechner, Commissioner Wallin seconded, motion carried unanimously.

Commissioner Joselyn opened Public Comment for Steve Erickson in order to address a question from the Planning Commission.

Mr. Erickson stated that hydroponic basically means growing it in water and typically most production is not in water which really differentiates marijuana cultivation is at a completely enclosed structure. Not necessarily even in a greenhouse. He suggests under number 3 that most but not all production of marijuana is expected to be in an enclosed structure.

Dave Wechner responded that the same issue did come up in a previous hearings, workshops and correspondence and they actually objected to a finding that it would be in an enclosed structures recognizing that most of it would be but they did not want to feel that they were being perhaps prejudiced against because there are some that did want to allow outdoor grows. The vast majority of marijuana grows on this side of the Cascades will be in structures but they felt somewhat excluded by adding that. He does not disagree with Mr. Erickson that it will be primarily an artificial environment be it in a structure or the way the nutrients are delivered to the marijuana plants in most grow operations. If Mr. Erickson allows, he would suggest that rather than using hydroponic the findings can say:

Finding E subsection 3: Most but not all production of marijuana is expected to be in a controlled environment for primary commercial growing operations will not generally be done as 'land-based' agriculture.

Commissioner Enell made the motion that Finding E subsection 3 be revised as read by Director Wechner, Commissioner Yonkman seconded, motion carried unanimously.

Commissioner Enell made an additional comment regarding Finding E, the last words in the finding allows enough latitude should someone want to grow marijuana under Ebey's they can do so.

David Wechner replied that the determination whether the growing of this crop/ product is compliant with the Ebey's Reserve is entirely up to the trust board and that is their call. What is being done essentially is recognizing their jurisdiction to make that decision and leaving it up to them.

Commissioner Enell made the motion to approve the Finding and Recommendations as amended, Commissioner Wallin seconded, motion carried unanimously.

Commissioner Enell made the motion to approve the proposed code language amendments A, B, C as amended, Commissioner Havens seconded, motion carried unanimously.

NEW BUSINESS

Planning Commission Workshop to discuss proposed updates to the Island County Comprehensive Plan and Development Regulations to protect Fish and Wildlife Habitat Conservation Areas.

Brad Johnson wanted to formally introduce the documents that were e-mailed to the Planning Commission on March 24, 2014 and wanted to clarify that there would not be any action required to be taken by the Planning Commission today.

- Final Best Available Science and Existing Conditions Report for Island County's Fish and Wildlife Habitat Conservation Areas.
- Island County Fish and Wildlife Habitat Conservation Areas (Audit and Policy/Regulation Framework).
- Island County Critical Areas Ordinance (Fish and Wildlife Habitat Conservation Areas Update).

Jamie Hartley discussed following the best available science and making the ordinance more understandable for the public and the staff. This would improve the clarity of the ordinance. ; Looking ahead through the Comprehensive Plan update through 2016 that will involve looking again at the existing wetland ordinance. Most jurisdictions have 8 critical areas ordinance which include wetlands, Fish and Wildlife Habitat Conservation Areas, and geologic hazard areas, that's truly an easier way for the public to understand it and understand the requirements for critical areas but also for the staff to administer, so the goal was to use the Fish and Wildlife Habitat Conservation Ordinance to restructure it to be more coherent and be able to be put into this format.

Brad Johnson wanted to let the Planning Commission that he would be happy to answer any preliminary questions they may have regarding the basic process; their intention was to continue this discussion until the 8th of April for a more in depth presentation with the consulting team and members of the TAG to participate as well. They have also committed to public meetings in each one of Island County's planning areas. These meetings will be held sometime between now and when a final action in order to present comments from the public to the Planning Commission for the final recommendation.

Commissioner Havens asked if Mr. Johnson was aware of the Smelt runs. The smelt has deteriorated and it is heavily fished by the commercial fisherman. The State is now looking at this problem. He is concerned that it will disappear like the herring did in the waters.

Commissioner Yonkman asked Jamie had any thoughts on the subject.

Jamie responded that they do have someone from the Fish and Wildlife on the committee and would be able to ask him.

There was further discussion regarding the process of the fishing and trespassing issue.

Commissioner Enell wanted to discuss a similar issue in the Langley area and the decline of ghost shrimp and the impacts it has to the whales.

Brad Johnson took the opportunity to define the parameters of what was looked at through the update. State law has change somewhat that now all of the resources, critical areas within Shoreline Jurisdiction are to be regulated exclusively through the Shoreline Master Program Update, this update was narrowly confined to those Fish and Wildlife Habitat Areas that are not within Shoreline Jurisdiction.

Commissioner Yonkman asked Jamie if the Best Available Science looks at the combination of over fishing combined with development along the shoreline where there are environmental impacts created by the those developments.

Jamie Hartley responded that you may infer from various studies that something may be so but that does not make it so, in the process of the critical area regulation through the Growth Management Act is basically the intersection of science and politics. Science is supposed to be used as the basis for formulating policy but that does not mean that the policy is necessarily something that can be defended rigorously with science.

Brad asked that the meeting be continued until April 8th, 2014.

Commissioner Yonkman made a motion to continue the Fish and Wildlife meeting to April 8th and Commissioner Havens seconded.

Commissioner Yonkman moved continue the Fish and Wildlife meeting until April 8, 2014, Commissioner Havens seconded, motion carried unanimously.

Commissioner Havens moved to adjourn, Commissioner Enell seconded, motion carried unanimously.

Meeting adjourned at 10:09 a.m.
Respectfully submitted,

Virginia Shaddy